IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO. 9795 of 2004

Between:

K. Radha Devi, W/o. Murali Krishna, Hindu,
R/o. 7-4-5/1, Venkateswara Colony, Mahbubnagar.

..... PETITIONER

AND

1 The Collector & District Magistrate, Mahbubnagar.
2 Revenue Divisional Officer, Mahbubnagar.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of Mandamus or any other appropriate Writ, Order or Direction, declaring the action of the Collector, Mahbubnagar dated 09-06-2004 made in Ref No. C.1/5702/03 as illegal, and arbitrary and beyond the powers, and for a consequential direction to drop the proceedings with regard to the seizure against the petitioner herein.

Counsel for the Petitioner: MR.M.LAKSHMANA SARMA, Advocate.

Counsel for the Respondents: Govt. Pleader for Revenue.

The Court made the following:

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Oral Order:

On registering a crime against the petitioner and her family members for the offence under Sections 415, 420 IPC, proceedings under Section 4(2) of the A.P. Protection of Depositors of Financial Establishment Act, 1999 (for short 'the Act') were initiated by the 1st respondent and accordingly, the properties of the petitioner, her husband and her children were attached, authorizing the Revenue Divisional Officer to seize the listed properties. Questioning the same the present writ petition is filed.

Opposing the writ petition, 1st respondent filed a counter stating that he was appointed as competent authority under Section 4(1) of the Act and petitioner and her family members were dealing with Chit and Finance business in Mahabubnagar town and several depositors have complained that the petitioner and her family members including her husband have collected huge amounts from the depositors and now acting in a manner prejudicial to the interest of depositors to a tune of

Rs.20 lakhs and odd. In view of the same, appropriate proceedings were initiated to seize the properties of the petitioner under Rule 6(1) A.P. Protection of Depositors of Financial Establishments Rules, 1999 (for short 'the Rules) and after ordering seizure of the property the matter was referred to the Government under Section 3 of the Act on 09-06-2004 to pass an ad-interim order attaching the property of the petitioner. The 1st respondent appointed Revenue Divisional Officer, Mahabubnagar under Rule 6(2) of the Rules to assist in taking over possession of the properties in respect of which seizure was ordered so as to enable the Government to pass orders attaching the properties seized and referring the matter to the Special Court for making the ad-interim order of attachment as absolute.

Learned Counsel for the petitioner submits that petitioner will not have any grievance in attaching the property but the petitioner's family members cannot be evicted before finalization of the proceedings under the Act and properties cannot be seized under Rule 6 of the Rules.

A reading of Section 3 of the Act indicates that on the complaints received from the depositors, the Government in order to protect the interests of the depositors of such financial establishment pass an ad interim order attaching the money or other property alleged to have been procured either in the name of the financial establishment or in the name of any other person from and out of the deposits collected by the financial establishment, or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said financial establishment, or the promoter, manager or member of the said financial establishment, as the Government may think fit, and transfer the control over the said money or property to the competent authority. Whereas the competent authority appointed under Section 4 of the Act on receipt of the order from the Government under Section 3, shall apply within fifteen days to the Special Court for making the ad interim order of attachment absolute.

The District Collector is now appointed as competent authority to take possession of the properties attached by the Government under Section 3. Since the Special Court has not made the interim order of attachment as absolute, petitioner or his family members cannot be evicted from the petition schedule property pending finalization of the proceedings. Therefore, the attachment order passed by the Government will be subject to further orders that may be passed by the Government and Special

Court.

In view of the same, petitioner and her family members shall not be evicted till necessary orders are obtained from the Special Court as contemplated under Section 6 of the Act.

The writ petition is accordingly disposed of. No costs.

_____ A.GOPAL REDDY, J.

22-07-2004

Murthy

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Collector & District Magistrate, Mahbubnagar.
2 Revenue Divisional Officer, Mahbubnagar.

3.Two CCs to the Govt. Pleader for Revenue, High Court Buildings.

Hyderabad. (OUT)

4.Two CD copies.